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SENSITIVE

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TAGS: [PHUM](#) [PREL](#) [UNHRC](#)

SUBJECT: Human Rights Council 10th Session - Postmortem

Ref: (A) Storella-IO-RHS-DL et al email March 23, 2009
(B) Chambers-IO-RHS-DL et al email March 27, 2009 (vote count)

Summary

¶11. (SBU) The Human Rights Council (HRC) concluded its 10th session on March 27. The United States participated actively as an observer in the Council for the first time in nearly a year. Passing over 30 resolutions, the session produced mixed results, continuing some of the disappointing trends that have characterized the work of the Council since its inception. Positive highlights included solid resolutions on Burma, the DPRK, arbitrary detention, torture, and human rights while countering terrorism, all with U.S. support and co-sponsorship. Lowlights were the passage of yet another defamation of religion resolution, a Cuban resolution to create a special procedures mandate on Cultural Diversity, and a weak resolution on the DRC. The HRC paid very little attention to burning human rights issues such as Sri Lanka or Darfur, and continued its structurally unbalanced criticism of Israel. Of equally negative consequence were the many procedural attacks and counter-productive initiatives that diverted the Council's attention and further demonstrated the powerful and entrenched interests of delegations such as Egypt, Pakistan, and South Africa.

¶12. (SBU) USG participation in the negotiations directly improved many resolutions; however, those gains attributable to the United States were marginal when compared with the overall need to improve the general direction of the HRC.

¶13. Nevertheless, many delegations and NGOs spoke positively about U.S. reengagement, saying that our presence helped shape the debate and provide a voice that others needed to hear. End summary.

Poor Grades for the Council Session

¶15. (SBU) Although still early to evaluate fully the results, diplomats and NGOs we have spoken with to date have given the 10th session mixed but largely negative reviews. A well-respected NGO representative told us that in his long career of observing the Human Rights Council and its predecessor Commission, this session was the worst. He equated it to adolescents picking fights and calling votes to win points, as opposed to a serious body addressing serious issues.

¶16. (SBU) Many diplomats with whom we spoke were disappointed with the session, but found it to be comparable with previous ones. Some diplomats took solace in the several solid resolutions (see below and Ref B for full list of resolutions and vote counts).

Evaluating U.S. Reengagement

¶17. (U) Based on Ref A outlines for success, the USG did reasonably well this session.

8. (SBU) CHANGING THE TONE: Active USG engagement and broad coverage made clear the U.S. had returned to the Council. We met with a large number of special procedures mandate holders, most of whom lauded the USG's new approach and policies. Our public remarks in side events and in plenary about detainee policies, the President's Executive Orders and many other issues were extremely well received.

Using our voice often in plenary interventions attracted press inquiries, requests for our statements, and frequent comments that the U.S. was taking a new approach to many issues. Our PA section maintained real-time updates on the Mission website of our interventions, which were picked up by international media outlets. Most notable to the diplomatic community was the professional competence that the USG brought to the table during the negotiations of resolutions. Delegations of all stripes told us repeatedly that U.S. viewpoints were often able to carry the day because they were well-articulated and founded on a clear understanding of law and practice.

¶9. (SBU) That said, the session featured typical over-emphasis on Israel (per the structural imbalance codified in an agenda item dedicated to the Occupied Palestinian Territories) and a particularly egregious effort by Egypt and some other OIC countries to hold Israel to a different standard than any other country with respect to the Universal periodic Review (UPR) process, by demanding that Israel explicitly indicate its acceptance or rejection of each of the recommendations made, something very few countries have done and which is not required by the rules. Our quick intervention in Geneva, Cairo, and Washington helped prevent the Egyptians from making a bad situation worse.

¶10. (SBU) The Council also lost an opportunity seriously to address
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human rights in the DRC, and paid only scant attention to burning human rights issues in countries such as Sri Lanka or Darfur. Of equally negative consequence were the many procedural attacks and counter-productive initiatives that diverted the Council's attention and further demonstrated the powerful and entrenched interests of delegations such as Egypt, Pakistan, and South Africa.

¶11. (SBU) USG objections to the worst attempts to undermine the Council may have helped bolster others who agree with us, and our efforts to raise important country-specific issues did draw some attention to those problems. However, the overall tone of the HRC remained confrontational and unbalanced, and the USG's presence this session may have had only a marginal effect in altering that.

¶12. (SBU) ADVANCING KEY MANDATES: The renewal of the special procedures mandates on Burma and DPRK was particularly positive. The Burma resolution passed by consensus and active negotiation by the USG ensured that the compromise language remained strong. The Somalia mandate renewal, although only six months in duration, was an improvement from the initial three months proposed by the African Group. Heavy USG lobbying over the past several weeks may better position us to engage positively when the mandate comes up for renewal in September.

¶13. (SBU) Of great disappointment was the extremely weak resolution on the Democratic Republic of the Congo (DRC). The African Group, led by Egypt, squelched the EU's efforts to create an independent expert mandate, despite heavy USG lobbying in Geneva and Kinshasa. Egypt tabled a weak, competing resolution and eventually used a rarely invoked procedural vote to sideline the EU text. Repeated EU, U.S. and like-minded proposals and concessions that would have only minimally altered the African Group text met with continued refusals by the DRC and the African Group (read: Egypt) to make any compromise at all. In the end, Egyptian and DRC intransigence prompted the EU to table a very modest package of amendments from the floor, which failed to pass. The only silver lining was that the vote against the EU amendments (21N 18Y 8A) was only narrowly lost--and included abstentions by Senegal, Ghana, and Burkina Faso, demonstrating a rare break from monolithic African Group voting.

¶14. (SBU) IMPROVING RESOLUTIONS: The greatest USG contribution to this session can possibly be found in the many small and large improvements to individual resolutions. We were able to co-sponsor

seven (DPRK, Burma, Torture, Arbitrary Detention, Counter-Terrorism, Disabilities, and for the first time the Argentine QRight to TruthQ/Forensics resolution). USG lobbying in capital and in Geneva helped press Egypt to postpone its freedom of religion resolution.

¶15. (SBU) After lengthy negotiations, the EUQs resolution on religious intolerance was rejected by Pakistan on behalf of the OIC.

In a last minute attempt to secure consensus, the EU reverted to their original tabled text for adoption by the HRC, which resulted in adoption of a weaker text than the USG was ultimately able to co-sponsor. The resolution passed without a majority. The OIC, led by Pakistan, abstained because the resolution did not include adequate language condemning expressions of religious intolerance, among other reasons.

¶16. For the first time South Africa cast the lone opposing vote, claiming the text insufficiently addressed redress to victims of discrimination based on religion or belief, and thereby diminished the real plight of those who suffer from such discrimination.

¶17. (SBU) The USG also secured a slight increase in support to oppose the defamation of religions resolution. In a first for the Group of Latin American and Caribbean Nations (GRULAC), Chile voted against the resolution, signaling that this problematic concept is not a fight between the QNorthQ and QSouth.Q The defamation resolution passed as expected, but with the QnoQ and Qabstention votes again greater than the QyesQ votes. Although the vote was similar to previous years, an increasing number of abstaining countries, particularly among the GRULAC, indicated to us privately that they were moving towards no votes. Japan and Brazil issued explanations of vote for their abstentions that offered hope that they may be moving towards no votes and ChileQs strongly worded defense of their no vote provided added pressure on states that traditionally abstain or support the resolution. Other delegations such as Ghana and Bosnia were grateful for our outreach on defamation, which helped them articulate arguments to their capitals in favor of abstentions or no votes.

¶18. (SBU) Several very problematic resolutions passed, such as the Cuban initiative to create a mandate on Cultural Diversity, South African resolutions on racism and on complementary standards, plus five resolutions related to Israel.

Comments

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¶19. (SBU) The U.S. managed our reengagement competently and in a manner that elicited substantial good will. However, the sessionQs true successes appear outweighed by its failures and shortcomings. We will long be fighting the many problematic resolutions adopted, such as the resolution on complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. While presented as a procedural resolution for the purpose of confirming the continued mandate of the Ad Hoc Committee, its legacy will be substantive. The resolution expresses the need to enhance the momentum of the process of elaborating complementary standards with a view to ensuring the timely fulfillment of the Ad Hoc CommitteeQs mandate. That mandate has been interpreted-Qdespite vigorous protest from the EU and other like-minded delegations--by OIC and African Group delegations to include the elaboration of new normative instruments, such as an Optional Protocol to the ICERD that would seek to protect against, among other things, the defamation of religions. Equally worrisome is the level of support this resolution received: it was adopted with 34 votes in favor (including Chile, Argentina, Uruguay and Mexico) and 13 against (primarily EU members).

¶20. (SBU) As both the closing act and one of the defining moments of the session, a debate about the usefulness of the vote on the DRC resolution will likely ensue. The vote on the EUQs modest amendments was surprisingly close and demonstrated two things: the Europeans and other like-mindeds will not always go-along to get along, and the African Group moderates will not always support Egypt and the hardliners when the situation merits better action by the

Council. If the DRC vote is subsequently spun as a confrontational fight, it could become a rallying call for the NAM to push against the Qwest.Q If it is characterized as a principled disagreement and effort to improve human rights in a dire situation, it could provide the opportunity to encourage greater cooperation with African moderates who generally prefer to keep their heads down. We will continue our efforts to court greater independence by those moderates.

¶21. (SBU) In the bigger picture, the HRC remains a problematic body. Its membership is skewed in favor of the Organization of the Islamic Conference and the African Group. Key players from those groups -Q particularly Egypt, South Africa and Pakistan -- guard their entrenched dominance with vigor. Their secure majority translates into a readiness to be confrontational without concern for the consequences. Even if the USG is more influential than other like-minded delegations, improving the HRC and changing its dynamics is a long-term project, will be a significant struggle, and will require a coordinated effort in Washington, New York, Geneva, and foreign capitals. These dynamics Q- and the desire of many to keep them -Q will also shape the upcoming 2011 review of the HRC. End comment.